

## PROFESSIONAL EMPLOYER AGREEMENT

THIS PROFESSIONAL EMPLOYER AGREEMENT (hereinafter "Agreement") is made by and between Avitus, Inc., an Avitus Group company ("Avitus Group") and SLOORPEEZ (hereinafter "Client"), which is a CORPORATION. It is executed on this 16 day of NOV., 2015

WHEREAS, Avitus Group is a professional employer organization (hereinafter "PEO"); and

WHEREAS, Client desires to utilize Avitus Group services under the terms and conditions herein stated;

NOW, THEREFORE, the parties agree as follows:

- 1) Agreement Effective Date and Commencement of Services. This date shall be 11/16, 2015. Avitus Group services shall commence provided that Client has submitted all Avitus Group required documentation and employee enrollment materials and has met all safety and credit assessment requirements.
- 2) Term. The term of this Agreement shall begin on the date set forth herein and shall continue until terminated in writing by either party. Such termination shall require thirty (30) days' advance notice. Such termination shall not relieve Client of its obligation for fees and costs incurred in conformity with this Agreement up to and including the effective date of termination.
- 3) Management of Client's Business Operations.
  - a. Client has engaged Avitus Group solely to provide the PEO services described herein. Avitus Group shall have no right to manage, direct or control Client's business operations. Client shall be solely responsible for the profitability, management, control and safety of its business operations, facilities, vehicles, equipment, goods and services.
  - b. Notwithstanding any other provision of this Agreement, Avitus Group reserves a right of direction and control over employees assigned to the client's location. The client may retain sufficient direction and control over employees necessary to conduct business and without which the client would be unable to conduct business, discharge fiduciary responsibilities; compliance with any licensure, regulatory, or statutory requirements; the goods and services produced by Client; and, the acts, errors, and omissions of the Employees. Client shall take such steps determined by Client to be adequate or desirable to screen or evaluate the Employees, and to safeguard any cash, intellectual property or other valuable property to which the Employees may have access.
- 4) Engagement of Services. The parties to this Agreement acknowledge and agree that it is their mutual desire and purpose to engage Avitus Group to provide to Client the services described in this Agreement. Client acknowledges that Avitus Group shall co-employ the workers (hereinafter "Employee" or "Employees") covered by this Agreement and pursuant to any written agreement between Avitus Group and each such Employee and which are assigned to Client's worksite and separate from any agreement between Client and Employee. Avitus Group retains authority to hire, terminate, discipline and reassign employees. Each Employee covered hereby, as well as the Client's worksite to which said Employee is assigned, shall be identified by the "Application For Employment" forms and "Payroll Report" forms applicable to such Employee and required by Avitus Group to be provided by Client in recognition of the fact that the Employees identified are the co-employees of Avitus Group and the Client. Client acknowledges that it has certain responsibilities and/or obligations in regard to such Employees including but not limited to those imposed pursuant to Internal Revenue Code § 414(n). Identified Employees at Client work site may change from time to time to reflect changes in the work force as provided herein and such changes shall be verified by required "Application for Employment" forms, "Payroll Report" forms and any and all applicable agreements.
- 5) Schedule of Services. Avitus Group shall provide services to Client relating to Avitus Group Employees assigned to Client worksite(s) as outlined in Exhibit A attached hereto and made a part of this Agreement.
- 6) Employee Administration.
  - a. Employees shall be assigned to Client by Avitus Group in accordance with the job requirements and descriptions provided to Avitus Group by Client that are not intended to be temporary or short term in duration. Client has the right to accept or cancel the assignment of an employee.
  - b. Client may interview and recommend persons to Avitus Group to be hired as Employees. No person will become an Employee subject to this Agreement until Avitus Group has received all required new hire forms in its office, agreed to hire the person, and assigned the person an Employee ID number. Client is solely responsible for all employer responsibilities for persons who have not been hired by Avitus Group.

- c. Client may request Avitus Group to remove or discipline any Employee. Client shall consult with Avitus Group before taking disciplinary action against an Employee. Client shall cooperate with Avitus Group in the investigation of Employee misconduct and in responding to Employee grievances and complaints. Client shall be solely responsible for any unilateral action it takes with respect to any Employee without first consulting Avitus Group.
  - d. Avitus Group retains the full and exclusive right to exercise control over all employment matters pertaining to the services rendered to Client by Employee. Client shall be responsible for Employee direction relative to the operational duties of Employee(s), including day-to-day professional supervision.
- 7) Payroll Administration.
- a. Avitus Group is responsible for and shall process (from its own account under its own name) payroll payments (*i.e.*, Employee wages) in accordance with the applicable laws and regulations based upon timely and accurately reported payroll data provided by Client.
  - b. Client shall timely and accurately provide the data necessary for Avitus Group to process payroll for the Employees, including but not limited to hours worked, rates of pay, and exempt/non-exempt status. Client shall maintain records of actual time worked by the Employees. In order to ensure accurate calculation of fees and proper withholding and reporting of taxes, Client agrees not to pay any wages or salaries directly to any Employee without informing Avitus Group in writing of such payment and obtaining Avitus Group's written consent to do so. Client acknowledges that a material condition of this Agreement is full and truthful disclosure to Avitus Group of all information required for payment of wages in accordance with federal, state, and local wage and hour laws.
  - c. Avitus Group is responsible for and will withhold, report, and remit (from its own account under its own name) federal, state, and local payroll-related taxes, including, without limitation, unemployment taxes, workers' compensation premiums, and employee benefits. Provided Client has paid all Avitus Group invoices in full and on time, and provided Client has provided Avitus Group with complete and accurate information, Avitus Group indemnifies and holds harmless Client for any legal consequences arising out of Avitus Group failure to make lawfully required payroll tax deposits. Client acknowledges that a material condition of this Agreement is full and truthful disclosure to Avitus Group of all information required for payment of wages in accordance with federal and state wage and hour law.
- 8) Changes in Employee Compensation.
- a. Client shall notify Avitus Group in writing of any requested change in the compensation of any Employee. Changes in Employee compensation are effective only when approved by Avitus Group at its headquarters office and entered into its payroll system.
  - b. Client understands and agrees that only Avitus Group has authority to finalize a change in the compensation to be paid to any Employee. Any change in Employee compensation promised or offered by Client and not finalized by Avitus Group shall not be binding on Avitus Group.
  - c. Except for written Employee benefit plans formally adopted by Avitus Group, Avitus Group does not offer, participate in or administer any deferred compensation, profit sharing or bonus programs for the Employees. Any agreements by Client to pay deferred compensation, profit sharing or bonuses are solely the obligation of Client and not of Avitus Group. Avitus Group may require Client to fund all such obligations in full at the time such obligation accrues. Client shall disclose to Avitus Group, in advance, any deferred compensation, profit sharing or bonus programs that Client intends to offer to the Employees.
  - d. In the event that any of the Employees are employed to provide services for Client and any other customer of Avitus Group, Client shall bear such share of any overtime costs attributable to the Employees as may be determined by Avitus Group in its sole discretion.
- 9) Unemployment Insurance. Avitus Group shall be responsible for the payment of unemployment insurance from its own account under its own name. Avitus Group shall conduct a review of unemployment claims as it deems appropriate. Client shall cooperate with Avitus Group in the resolution of all unemployment insurance claims.
- 10) Worker's Compensation Insurance. Avitus Group shall maintain (either, in its own name or for the Client's behalf and in the Client's name), one or more policies of workers' compensation insurance intended to cover the Employees. When applicable, Client further agrees to provide Avitus Group with current certificates of coverage and an alternate employer endorsement naming Avitus Group. Client shall comply with all health and safety laws, regulations, ordinances, directives, and rules including, but not limited to, any written safety program as may be required by law imposed by controlling federal, state, and local governments in regard to work space, controlled work environment, and any tools and equipment provided by Client for Employee(s). Client agrees to comply with any specific safety program or policies provided to Client by Avitus Group, as well as any directives from Avitus Group Risk Manager, Insurance Representative or insurance carriers as to the worksite environment, health, and safety of Employees.

11) First Aid Injuries (for California Employers only). Client will be responsible for paying the medical expenses for all "First Aid" injuries in all states where such payment is permissible by law. "First aid" is generally any one-time treatment, and any follow-up visit for the purpose of observation of minor scratches, cuts, burns, splinters, etc., which do not ordinarily require medical care. Such one-time treatment, and follow-up visit for the purpose of observation, is considered first aid, even though provided by a physician or registered healthcare personnel.

12) Safety and Facilities.

- a. The parties acknowledge that injury prevention, loss control and claims management are of primary concern to both Client and Avitus Group. Client agrees to provide Employee(s) a workplace free of recognized hazards and in full compliance with all applicable Federal and State occupational safety and health statutes. Client further agrees to follow any State required and/or Avitus Group written Injury and Illness Prevention Program. Client agrees to cooperate with the Avitus Group Risk Manager who is responsible for the worksite safety-care programs administered by Avitus Group for Employees. Client agrees that Avitus Group Risk Manager or Avitus Group Insurance Representative shall have the right to inspect the work environment provided Employee(s) at any mutually convenient time. Client agrees to contact Avitus Group within 24 hours in the event of a work-related injury or illness and provide Avitus Group with copies of required "Report of Accident" and/or "Notice of Injury" forms sent to Client's insurance carrier.
- b. Client agrees to allow Avitus Group or their insurance carrier representative the right to inspect the client's payroll records, job duties and worksites for up to one year past the end of any workers compensation policy period, even though this Agreement may have been terminated.
- c. Client will provide the Employees with any necessary training, tools, equipment, facilities, protective equipment or supplies. Client shall be solely responsible for complying with any requirements for Employee(s) to be licensed or work under the supervision of licensed persons.
- d. Client agrees to cooperate with Avitus Group in establishing and implementing a drug-free workplace or program as may be required by Avitus Group.
- e. Client agrees to cooperate with Avitus Group in conducting pre-employment and/or post-employment background investigations as permitted by law for positions with significant worker injury exposures, such as truck drivers, security guards, operators of certain heavy or dangerous machinery.
- f. Client is responsible for compliance with the Federal Occupational Safety & Health Act and any equivalent and applicable State laws and regulations.

13) Employment Practices Liability Insurance. At the time of this agreement, Avitus Group currently maintains Employment Practices Liability Insurance. Client acknowledges that changes in circumstance, fact, law or any other exigency may require or cause a change to the terms of said policy, including the termination of said insurance without prior notification to Client. Avitus Group will endeavor to provide Client with a reasonable notice of any such changes. The policy in effect at the time of this Agreement provides coverage for certain claims arising from covered Wrongful Acts brought against the Client or against any Avitus Group Employee at Client worksite or by Avitus Group employees at Client worksite, subject to the terms, conditions, limitations and exclusions set forth within said policy. Terms, limits of liability, deductibles, and other conditions of said policy may change from year to year. Client acknowledges that the terms of any policy in effect at the time any covered incident is reported will be controlling on the parties. Client agrees not to rely on this summary, and to instead rely on the actual policy information. In the event that a deductible or self-insured retention (hereafter collectively "Deductible") amount is applicable to a claim in accordance with the terms of the policy (including claims solely against Avitus Group), the Client shall pay the first fifty percent (50%) of the Deductible, and Avitus Group shall pay the remainder of the Deductible (if any). Nothing contained in this Agreement shall alter, amend, or modify the coverage of such policy. Client agrees that if Client becomes aware of any oral or written claim under the referenced policy, or potential claim, or action, which may result in a claim, to notify Avitus Group within 5 days of receiving such notification. Client further agrees to indemnify and hold Avitus Group harmless from failure to notify Avitus Group of any such claim.

14) Employee Benefits.

- a. Avitus Group may provide certain benefits to Employee(s). Client acknowledges that changes in circumstance, fact, law or any other exigency may require or cause a change in the benefits offered by Avitus Group to Employees. Avitus Group will endeavor to provide Client with reasonable notice of changes to such benefit plans.
- b. Client hereby represents and warrants that all I.R.C. Sec. 125 & 129 elections made prior to this Agreement are based upon professional advice, are lawful, and permitted under said sections. Client indemnifies and holds harmless Avitus Group for any legal consequences arising out of Sec. 125 & 129 elections or coverage made prior to this Agreement.

- c. Client agrees that for any benefit plan by Client prior to, during or after the term of this Agreement, Client is solely responsible for determining eligibility, participation and distribution matters and that Avitus Group has no responsibility for such benefits. Client indemnifies and holds Avitus Group harmless for any and all liabilities or consequences arising out of the maintenance of such benefits.
- d. Client further agrees to provide continuation of health insurance coverage as may be required by COBRA to any and all eligible employees in Client's current plan or upon termination of this Agreement and indemnifies and holds Avitus Group harmless from any claims thereto.
- e. Where Client sponsors and maintains a medical insurance plan (the "Plan") and wishes to continue offering the Plan to Employees, Client may request Avitus Group to withhold and remit Employee premium payments with respect to the Plan. Avitus Group agrees to withhold and remit Employee premium payments subject to the terms of this agreement. Avitus Group shall provide to the Client or its agents or designees all information reasonably requested by the Client for purposes of administering the Plan, including providing such information following termination of this Agreement. Client and Avitus Group acknowledge that Avitus Group may provide nondiscretionary administrative assistance with respect to the Plan; provided, however, that the Client retains its status as the named "Plan administrator" under ERISA. Avitus Group shall be entitled to rely solely on instructions from the Client or the insurance company underwriting the Plan in the withholding and remittance of Employee premium payments and in providing administrative assistance. Client will be the sole sponsor of the Plan and the plan administrator and fiduciary of the Plan under the Employee Retirement Income Security Act ("ERISA"). Avitus Group shall not be a sponsor of the Plan, and Avitus Group assumes no obligation or responsibility to an Employee, participants or beneficiaries for the provision of medical insurance coverage or any act, or failure to act, on the part of the Client. Further, Avitus Group has no fiduciary responsibility in connection with the Plan.

Notwithstanding the administrative assistance provided by Avitus Group, Client acknowledges its sole responsibility for all obligations and expenses of establishing, maintaining and terminating the Plan including, but not limited to: annual information returns (Form 5500s) and Employee communication materials. Client acknowledges that the Plan and Client are solely responsible for COBRA coverage and compliance, if applicable, and compliance with other applicable state and federal laws affecting the Plan including, without limitation, FMLA, HIPAA, MHPA, etc. Client represents to Avitus Group it has and will continue to take all actions necessary to establish and operate the Plan in a manner that satisfies the requirements of any applicable state and federal laws.

Client, as sponsor and administrator of the Plan, hereby agrees on behalf of itself, the Plan and the Plan's participants and beneficiaries that the duties and liabilities of Avitus Group, its affiliated companies, its employees, officers, directors, agents and advisors in connection with this Plan are limited as described in this Agreement.

Client hereby indemnifies and holds harmless Avitus Group, its affiliated companies, its employees, officers, directors, agents and advisors from and against any and all loss, damages, claims, demands, costs and causes of action resulting from any act or conduct, including failure to act, in connection with the Plan, including all expenses reasonably incurred in their defense, in case the Client fails to provide such defense. Client indemnification and hold-harmless agreement in this paragraph includes, but is not limited to, any and all loss, damages, claims, demands, costs and causes of action resulting from the operation of the Plan; the application of any applicable state or federal laws including, but not limited to, COBRA, FMLA, HIPAA, MHPA, etc.; breaches of fiduciary duty with respect to the Plan; consequences arising from compliance with instructions of the Client or insurance company; reporting and disclosure requirements of ERISA and the Internal Revenue Code; and federal, state or local income, payroll, or other tax consequences that may result from Client's sole sponsorship of the Plan and Avitus Group withholding and transmittal of premiums with respect to the Plan.

In the event that any legal proceeding shall be instituted or that any claim or demand shall be asserted by any third party with respect to the obligation to indemnify contained in the Agreement, then Avitus Group shall give written notice thereof to the Client, and the Client shall have the right at its expense to be represented by counsel of its choice in connection with the defense, negotiation or settlement of any such third-party legal proceeding, claim or demand. Avitus Group shall tender to the Client the right to have client assume the defense of Avitus Group in connection with any such legal representation in connection therewith, subject to the approval by Avitus Group of such counsel. Furthermore, Avitus Group shall not settle any such claim, legal proceeding or demand without 15 days prior notice to and consent of the Client.

#### 15) Compliance: Legal Responsibilities.

- a. Client will provide the Employee(s) with a workplace free of discrimination, harassment or retaliation as prohibited by law. Client shall promptly notify Avitus Group of any complaints by an Employee, which appear to relate to any claim of unlawful discrimination or retaliation, harassment, or other unlawful employment practices. Client shall cooperate with Avitus Group in the investigation and defense of any claims asserted by an Employee.



- b. Neither Avitus Group nor Client shall discriminate on any basis prohibited by law, such as national origin, race, age, sex, religion, or disability. Furthermore, Client agrees to provide and maintain a safe and congenial place of employment that is free of discrimination and harassment and free from the use of alcohol and drugs except those as may be prescribed by a licensed health care professional.
  - c. Client recognizes that improper handling of a wage/hour investigation can result in substantial prejudice to both Client and Avitus Group, and that time is of the essence in any such matter. Accordingly, Client and Avitus Group both warrant that each will inform the other of any indication or information that wage/hour compliance may become a disputed issue.
  - d. Client acknowledges and agrees that it may be required to comply with certain employment-related laws which it had not heretofore been applicable to Client. Client further acknowledges that, with respect to a worker supplied to a client by a Professional Employer Organization or group, the client shares joint and several liability for any wages, workers' compensation premiums, payroll-related taxes, and any benefits left unpaid by the professional employer organization or group and that, in the event that Avitus Group's license is suspended or revoked, this liability is retroactive to the client's entering into a contract with Avitus Group. Client specifically indemnifies and holds harmless Avitus Group for the legal consequences of its reporting to the government of activity on Client's part which could create any legal liability to Avitus Group.
  - e. Client, at its expense, shall provide and cooperate with Avitus Group in providing leave and job reinstatement to any Employee eligible under the Family and Medical Leave Act. Client shall make available a reasonable accommodation to any Employee entitled to such under the Americans with Disabilities Act, the federal Rehabilitation Act or any comparable law. Client shall bear the sole cost of providing a reasonable accommodation to any Employee. Client shall bear the sole cost of providing a workplace that is in compliance with any applicable architectural requirements of the Americans with Disabilities Act, the federal Rehabilitation Act or any comparable law. In its dealings with the Employees, Client shall fully comply with all local, state or federal law applicable to the Employees relating to equal employment opportunity and non-discrimination in employment. Avitus Group shall not be responsible for any employment actions taken by Client with respect to the Employee, unless Client secures written authorization from Avitus Group's corporate office for such action. Client shall comply with all provisions of this paragraph without regard to whether Client or the Employee would be subject to the indicated laws in the absence of this Agreement.
  - f. Client agrees to provide written notice to Avitus Group prior to entering any government contract. Avitus Group will provide assistance to client in relation to client's Office of Federal Contract Compliance Program (OFCCP) obligations. Avitus Group accepts no responsibility or liability for federal contracts.
- 16) Damages and/or Losses Caused By Employee(s). Client bears all risk of loss, damage or liability based on, related to or arising out of the tortious, acts, errors or omissions of the Employees. Client accepts all risk that the Employees may prove unskilled, untrustworthy, incompetent or dishonest. Client is solely responsible for conducting any investigation or screening of Employees desired by Client.
- 17) Indemnity.
- a. Client hereby agrees to indemnify and hold Avitus Group harmless from and against any and all claims, demands, damages (including liquidated, punitive and compensatory), injuries, deaths, actions and causes of actions, costs and expenses (including attorney's fees and expenses at all levels of proceedings), losses and liabilities of whatever nature (including liability to third parties), and all other consequences of any sort, whether known or unknown, without limit and without regard to the cause or causes thereof or the negligence of Client, arising from the products or services provided by Client, the actions of any Employee, the actions of any non-covered employee employed by Client, or of any other individual affiliated with Client, including without limitation, any violation of any local, state and/or federal law, regulation, ordinance, directive or rule whatsoever, including but not limited to any the Federal, State, and local employment laws.
  - b. Avitus Group agrees to defend, indemnify and hold harmless the Client for any direct out-of-pocket expenses of the Client which may result from Avitus Group's failure to conduct itself in accordance with the laws of any state in which Avitus Group employs Employees under this Agreement. Client expressly acknowledges, however, that Avitus Group shall not be liable for its loss of business, goodwill, profits, or any other special, consequential, and/or incidental damages as a result of the same. Avitus Group does not indemnify Client for any claim, demand or proceeding arising out of, based on or related to the torts (intentional, negligent, grossly negligent or otherwise), acts, errors or omissions of any of the Employees.
  - c. Avitus Group provides two types of "Cafeteria" plans, or I.R.C. § 125 plans - a single employer plan and a multi-employer plan. Under the single employer plan, Employees may elect to set aside up to \$1,000 of medical expenses, and file claims under the plan against that set-aside. It is possible that an Employee may claim more than they have placed into the plan during the year, and then terminate employment without reimbursement to Avitus Group. Avitus Group expressly indemnifies Client against any claim or liability arising from a single employer plan shortage resulting from such early termination. Under the multi-employer plan, Client may elect coverage limits in excess of \$1,000 for medical expenses. Avitus Group and

Client acknowledges that if Client elects to adopt the multi-employer plan at any time during this Agreement and also adopts a coverage limit in excess of \$1,000, then Avitus Group shall indemnify Client against any claim or liability arising from a multi-employer plan shortage due to early termination of a covered Employee up to \$1,000, and Client shall indemnify Avitus Group against any claim or liability arising from a multi-employer plan shortage due to early termination of a covered Employee in excess of \$1,000.

18) Claims Notification. Avitus Group will notify Client immediately of the assertion or possible assertion of any and all claims against the Client which pertain to the administration of human resources (i.e., unemployment claims, wrongful termination claims, workers' compensation claims, and non-obligatory health, 125 Cafeteria Plan, and 401(k) programs), provided by Avitus Group for Employees at Client's worksite. Client will fully cooperate with Avitus Group in the investigation and defense of said claims. With specific regard to this paragraph, time is of the essence. Client further agrees that if they become aware of assertion or possible assertion of any of the foregoing, they will immediately notify Avitus Group.

19) Disclosure by Client. Client acknowledges that a material condition of this Agreement is complete and full disclosure of all information requested by Avitus Group including but not limited to any employee benefit plan now in effect or that may have been provided by client in any form during the period commencing six (6) years prior to the execution date of this Agreement, and/or the existence of any governmental investigation or inquiry during the period commencing five (5) years prior to said date. Failure to disclose any of the foregoing shall be deemed a material breach and default of this Agreement.

20) Insurance.

- a. Client acknowledges that, an employee assigned to a Client by a Professional Employer Organization is considered the employee of the client for purposes of general liability insurance, motor vehicle insurance, fidelity bonds, surety bonds, and liquor liability insurance carried by the client. Client further acknowledges that it is Client's responsibility to provide appropriate and adequate coverage for these risks.
- b. Client agrees concurrently with execution hereof to obtain a policy of commercial general liability insurance. Such commercial general liability insurance shall be maintained with a company rated no lower than B+ (A.M. Best Rating), and carry limits no less than \$1,000,000 per occurrence and \$2,000,000 aggregate. Such policy shall specifically cover Client's premises, operations, completed operations and products as applicable. Such policy shall also include blanket contractual and personal injury liability. The parties hereto specifically acknowledge and agree that Avitus Group has no intention of and is not liable in any manner for either the business operations or liabilities created thereby by Client. Client further agrees that it shall be solely responsible for any and all professional liability and/or obtaining and maintaining such professional liability insurance coverage. Same shall be said for liquor liability where Client business may include restaurant or liquor services.
- c. In the event an Employee is assigned to a job function requiring Employee to operate a motor vehicle for Client, Client shall furnish vehicle liability insurance including non-owned and hired auto. Such policy shall be primary and non-contributory notwithstanding coverage(s) carried by Avitus Group, and shall carry a combined single limit of no less than \$1,000,000 and uninsured motorist coverage with similar limits. Client acknowledges that insurance carried by Avitus Group does not cover loss or damage caused by Employee operating Client's owned or leased motor vehicles, and that Client shall be fully liable and responsible for any claims involving any damage, including but not limited to bodily injury, property damage, fire, theft, collision, cargo damage, or public liability, arising from the use by Employee of such motor vehicle, including the defense of any such claims.
- d. Client shall further require all independent contractors, general contractors and subcontractors (who perform any work or service at any worksite where Employees are engaged) to maintain workers' compensation insurance. Further, Client shall be obligated to provide and maintain required workers' compensation insurance for any worker or employee of Client not covered by Avitus Group under this Agreement in accordance with state statutes.
- e. Client shall provide Avitus Group with such proof of insurance as may be required by Avitus Group, such as certificates of insurance or copies of insurance policies. Client shall provide proof of insurance within 5 business days of any request by Avitus Group. Client shall further be obligated to have any company issuing any of the same notify Avitus Group of the cancellation thereof. Failure to provide such notification may be deemed a material breach and/or default of this Agreement. Client shall name Avitus Group as an additional insured on each of insurance policies, and shall endorse each insurance policy to waive all rights of subrogation  
against  
Avitus  
Group.

21) Fees and Costs for Engagement of Services. Client acknowledges that all owners, shareholders, and/or partners of the Client are jointly and severally liable for all fees and costs due to Avitus Group pursuant to this Agreement. Said owners, shareholders, and partners guarantee full performance which guarantee is absolute and without condition.

- a. Initial Sign-up Fee. Client shall pay Avitus Group a one-time initial sign-up fee. Said fee amount shall be established and agreed upon at time of execution of this Agreement and made a part hereof.
- b. Costs. Client shall pay Avitus Group the costs for all compensation, payroll taxes, benefits, unemployment insurance, workers' compensation insurance and any other cost incurred by Avitus Group related to, payable to or payable on account of any and all Employees pursuant to this Agreement and will be determined as a percent (%) of payroll. Costs for regular scheduled payroll delivery shall be the responsibility of Avitus Group. Costs incurred for the Employee background inquiry shall be shared equally by the Parties.
- c. Payment of Costs. Avitus Group shall invoice Client on a regular basis, normally on the second business day preceding the established payday at Client worksite. Costs are due and payable on the date of the invoice.
- d. Credit Card Convenience Fee. Payment by credit card requires an additional 4% convenience fee.
- e. Late Payment of Costs. In the event of Client failure to make the payment when due, Client agrees to pay an additional amount equal to 5% (but not less than \$75.00) of the amount due.
- f. Past Due Balances. Any unpaid balances shall accrue interest at a rate of 15% per annum, compounded daily.
- g. Returned Checks. Client checks returned unpaid from Client's bank will be subject to the late payment charge plus an administrative fee of \$50, but not exceeding the amount permitted under applicable law. Client's payment of any Avitus Group invoice by check constitutes Client's agreement that Avitus Group may electronically debit Client's account for the unpaid balance owed to Avitus Group together with all returned check fees incurred by Avitus Group and permitted by law.
- h. Inactive Status. Client's failure to submit payroll data for any of the Employees is a warranty and representation by Client that such Employee performed no services of any kind for or on behalf of Client during the relevant pay period. Avitus Group retains the right to challenge to challenge any workers' compensation claims filed by Employees based on alleged injuries during such pay periods. There will be an administration fee of \$100.00 for each inactive employee.
- i. Payroll Reserves. Upon execution of this Agreement, Client may be required to tender an agreed-upon payroll reserve, and maintain said amount during the term of the Agreement. The reserve amount will be based on payroll dollars to be processed and credit worthiness of client. Said reserves shall be held by Avitus Group during the term of the Agreement and shall be released to the Client within thirty (30) days of the termination of the Agreement. Avitus Group may hold said Payroll Reserve in its general account and said sum shall bear no interest payable to Client. Avitus Group may draw upon said Payroll Reserve at any time to pay such sum as is owed to Avitus Group by Client. In the event of bankruptcy or any other creditor-debtor proceeding filed by or against Client, Avitus Group shall first apply said Payroll Reserve to any sum owed Avitus Group by Client incurred prior to the filing of the proceedings next, to any sums incurred since the filing of proceedings, with any balance payable as directed by the proceedings.
- j. Variable Fees. Client and/or Employees may be subject to any of the following fees:
  - (1) Stop Payment Fee. If Avitus Group is required to stop payment on a payroll check, a stop payment fee shall be assessed to either Employee and/or Client. Client shall reimburse Avitus Group for any bank fees or charges incurred by Avitus Group.
  - (2) Replacement Check Fee. If a replacement payroll check is required, a fee of \$10.00 shall be assessed to either Employee or Client.
  - (3) Special Check Fee. If a payroll check is issued outside of the normal payroll pay day, a special check fee of \$25.00 shall be assessed either Client or Employee
  - (4) Flexible Spending Account. Employees electing to participate in a pre-tax medical account shall be assessed a monthly fee of \$5.00 which will be paid through payroll deduction or billed to Client.
  - (5) Benefit Expenses. Avitus Group may offer from time to time additional benefit programs for Employees. Said programs may have additional enrollment or administrative fees which Avitus Group will notify Clients and Employees of if they are applicable. Such fees must be agreed upon by Client prior to implementing.

22) Default and Termination.

- a. Default by Client is defined as: (1) failure to immediately pay in full any Avitus Group invoice; (2) failure to report payroll and/or failure to comply with the payroll process arrangement as agreed upon; (3) failure to comply within thirty (30) days with any directive of Avitus Group, when such directive is issued or made necessary by (i) a federal, state or local government agency, body or department, (ii) an insurance carrier providing coverage to Avitus Group Employees, (iii) failure to implement Avitus Group safety processes and procedures; and/or (iv) specific circumstances which currently or potentially affect Avitus Group, Client or Employees; (4) failure to report payroll or to make payment to Avitus Group for taxable wages for all Employee services contemplated by this Agreement or put Avitus Group at risk with regard to ability or willingness to make payment; (5) failure to maintain required insurance and such notification thereof; (6)

failure to provide correct workers' compensation classification; or misrepresentation of or failure to disclose information regarding the nature of the work duties and/or location of Employee(s); (7) commission or omission of any act that usurps any right or obligation of Avitus Group as the employer of Employee; (8) failure to utilize the services of any Employee without prior notice to Avitus Group and approval by Avitus Group; and/or (9) violation of any provision of this Agreement. Avitus Group may, in its sole discretion, immediately terminate services under this Agreement based on any default by Client.

- b. Avitus Group will immediately notify any regulatory agencies and insurance carriers of said termination of Employees covered by this Agreement. On termination of services under this Agreement, Avitus Group will terminate its employment relationship with the Employees and notify the Employee of the termination and the reasons therefore. Avitus Group will thereafter have no further employer responsibilities as to the Employees. Following termination of services under this Agreement, Client shall be solely responsible for all employer responsibilities as to the former Employees.
  - c. If Avitus Group should materially breach any provision of this Agreement, Client may terminate immediately by given written notice to Avitus Group within three (3) working days of said breach.
  - d. Avitus Group will provide the client their loss experience for the period of this Agreement, upon receiving a written request for such information from the client. The client's right to their loss experience information will extend for a period of six months following the termination of this Agreement.
- 23) Assignment. Neither party may assign its rights, duties or obligations hereunder, or any interest therein, without the prior written consent of the other party except that, notwithstanding anything in this Agreement to the contrary, Avitus, Inc. may assign its rights, duties and obligations hereunder, without Client's consent, to Better Business Systems, Inc., which is the parent corporation of Avitus, Inc. and which also is authorized to do business under the name of Avitus Group. Client shall be notified of any such assignment within thirty (30) days thereafter. This Agreement shall be binding upon and inure to the benefit of permitted assignees.
- 24) Waiver. Failure by either Party at any time to require performance by the other Party as required under this Agreement, or to claim a breach of any part hereof will not be construed as a waiver of any subsequent breach, nor prejudice the right of either Party to thereafter demand strict performance of the terms of this Agreement.
- 25) Prevailing Validity. Should any term, covenant, condition or provision of this Agreement be held invalid or unenforceable, the balance thereof shall remain in full force as if that unenforceable or invalid part did not exist.
- 26) Notices. Notice shall be deemed made upon delivery by hand or two (2) days subsequent to certified mail. All notices and other communications provided for herein shall be in writing and shall be given by hand or sent by certified mail, postage prepaid, addressed as follows:
- |  |  |
|--|--|
| <u>Avitus Group</u><br>P.O. Box 2506<br>Billings, MT 59103 | <u>Client</u><br>Address per signature page. |
|--|--|
- 27) Entire Agreement. This Agreement constitutes the sole and only agreement of the parties hereto respecting the subject matter hereof and correctly sets forth the rights, duties, and obligations of each to the other in relation thereto as of its date. Any prior agreements, promises, negotiations, or representations concerning such subject matter not expressly set forth in this Agreement shall be of no force or effect.
- 28) Dispute Resolution. All disputes between the Parties shall be resolved in the following manner: (a) written notice of the dispute shall be given promptly after learning of the existence of the dispute; (b) following the giving of notice, the parties shall cooperate in exchanging information and shall attempt to resolve the dispute; (c) if the dispute is not resolved within 30 days of the date of the written notice, the dispute shall be submitted to mediation prior to instituting any legal action. If a party institutes legal action prior to mediation, the parties agree that the responding party shall be entitled to a stay of proceedings and an order compelling the parties to attend mediation prior to the commencement of discovery in any legal action. Specifically excluded from the dispute resolution requirements of this paragraph are disputes arising from: (i) the nonpayment of fees and costs due pursuant to paragraph 21 herein; and (ii) termination of this Agreement pursuant to paragraphs 2 and 22 herein.
- 29) Choice of Law and Venue. The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the laws of the United States and of the State of Montana. Venue for all purposes shall be in Yellowstone County, Montana.
- 30) Attorney's Fees. In the event any legal action, arbitration or proceeding is commenced to interpret or enforce the terms of, or obligations arising out of, this Agreement, or to recover damages for the breach thereof, the party



prevailing in any such action, arbitration or proceeding shall be entitled to recover from the non-prevailing party all reasonable attorney's fees, costs and expenses incurred by the prevailing party.

- 31) Successors and Assigns. Each covenant herein contained shall inure to the benefit of and shall be binding on heirs, legatees, devisees, assignees, administrators, executors and successors in interest of the parties hereto.

**ACKNOWLEDGEMENT AND ACCEPTANCE OF PROFESSIONAL EMPLOYER AGREEMENT**

FOR AVITUS GROUP

Donald P. Reite  
Name (print)

Donald P. Reite  
Signature

President  
Title of Signator

11/30/15  
Date

FOR CLIENT

SCORBEET  
Legal Business Name (print)

4440 IRVING AVE.  
Legal Business Street Address

GLENDALE, CA 91201  
City, State, Zip Code

SHAHAN OHANESSIAN  
Name (print)

[Signature]  
Signature

CEO  
Relationship to Client (Owner, Partner, Officer, etc.)

11/16/15  
Date

NON-REFUNDABLE INITIAL SIGN UP FEE \$ \_\_\_\_\_ (RE:21(a))  
COST OF EMPLOYER PORTION (\$45) FOR OPTIONAL EMPLOYEE  
BACKGROUND CHECK:

NOTE: MULTIPLE STATE OR COUNTY RECORDS MAY RESULT IN  
A HIGHER COST FOR BACKGROUND CHECKS.

## **ADMINISTRATIVE SERVICES INCLUDED IN THE PROFESSIONAL EMPLOYER AGREEMENT\***

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### **HUMAN RESOURCE SERVICES**

- Develop and Provide Customized Employee Handbook
- Assist with Development of Job Descriptions
- Assist with Development of Employee Performance Evaluation Program
- Research Compensation Ranges and Development of Wage Matrix
- Provide Member Quick Start Guide Including Required Employment Forms Provided in Hard Copy and CD
- Assist with Employee Management Including Hiring, Discipline, Conflict Resolution, Termination
- Perform Background Checks and/or Drug or Alcohol Testing (Additional Fees)
- Maintain Employee Personnel Records
- Processing New Hire Applications
- Manage Employee Unemployment Claims
- Provide FMLA Status Reports and Tracking
- Provide Required Trainings as Mandated Law
- Provide Optional Trainings as Requested\*
- Recruiting Services \*
- Provide Mandatory Employment Postings
- EPLI- Employment Practices Liability Insurance Included

### **RISK MANAGEMENT SERVICES**

- Provide Written Safety Program And Safety Manual
- Identify Specialty Programs for Client Industry
- Provide Comprehensive Safety Inspection And Regular Worksite Safety Review
- Develop Safety Action Plan
- Assist With Job Analysis
- Consultation On Safety Activity In The Workplace
- CAL-OSHA Consultation
- Complete and Provide OSHA 300 logs
- Identify and Review PPE (Personal Protective Equipment) Requirements
- Accident Investigation
- Workers' Injury Claims Administration
- Provide Occupational Training as Required by Law (Within scope of Avitus Group Certifications)
- Provide Occupational Training as Required by Client Industry (Within scope of Avitus Group Certifications)
- Provide Optional Trainings as Requested-see training guide for complete list of topics\*

### **PAYROLL SERVICES**

- Process Total Payroll Hours Reported And Generate Employee Checks
- Provide Invoice And System-Generated Reports With Each Processed Payroll
- Multiple Payroll Reporting Options
- Process And Make Payment Of Payroll Tax Deposits And Reports (Federal, State, & Local) Monthly, Quarterly And Yearly as Mandated
- Departmental Payroll Processing And Reporting
- Job Costing Payroll Processing And Reporting
- Davis Bacon Certified Payroll Reporting (Requires Special Payroll Reporting)
- Calculate, Deduct, And Remit Payment of Wage Garnishments, Child Support, Tax Levies, Wage Assignments, Etc.
- New Hire Reporting To Meet State And Federal Compliance
- Generate And Distribute Year-End W-2's
- Special Reports as Requested
- Free Direct Payroll Deposit or Pay Cards for Employees
- Free Online Time and Attendance System including Specialized Reports

### **BENEFIT SERVICES**

- Provide Employee Benefit Plans: 401K Retirement Plans, Flexible Spending Plans, Supplemental Insurance Plans
- Research and Administer Client-Sponsored Health Insurance Plans
- Access to Online Retirement Plans and Supplemental Insurance Plans
- Provide System Generated Reports With Each Processed Payroll

\*Enhanced Services that are not part of the Membership fee- additional fees may apply